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16 Attorneys for Defendant

17 UNITED STATES DISTRICT COURT

18 DISTRICT OF NEVADA

19 DUSTIN BEAVERS, an individual,

20 CASE NO. 2:19-cv-846-APG-NJK

21 Plaintiff,

22 **PROPOSED JOINT PRE-TRIAL ORDER**

23 v.

24 GEICO INSURANCE AGENCY dba GEICO
25 INSURANCE COMPANY, a foreign
26 corporation; DOES I through X, inclusive and
27 ROE BUSINESS ENTITIES I through X,
28 inclusive,

29 Defendants.

30 After pretrial proceedings in this case,

31 IT IS SO ORDERED:

32 **I.**

33 **This is an action for:**

34 This is an action for breach of contract arising out of an insurance policy for underinsured
35 motorist (“UIM”) coverage.

36 Plaintiff’s Complaint brings forth causes of action against Defendant for breach of UIM
37 contract, based on damages Plaintiff alleges arise out of injuries sustained in an automobile accident

1 occurring on or about December 30, 2016. The parties stipulated to dismiss Plaintiff's extra-
2 contractual claims.

3 Plaintiff's Complaint seeks relief in the form of general damages sustained by Plaintiff in an
4 amount in excess of \$15,000.00; special damages to be determined at the time of trial; consequential
5 damages, including attorney's fees; expectation damages for denied policy benefits in excess of
6 \$15,000.00; medical and incidental expenses already incurred and to be incurred; lost earnings and
7 earning capacity; reasonable attorney's fees and costs of suit; punitive damages in an amount to be
8 determined at trial; interest at the statutory rate; and for such other relief as the Court deems just and
9 proper.

10 Defendant submits that it has not breached the policy with Plaintiff in relation to any UIM
11 benefits.

12 **II.**

13 **Statement of jurisdiction:**

14 This action was originated by the filing of a Complaint in the District Court, Clark County,
15 Nevada on April 3, 2019. Defendant removed the case from State Court to Federal Court on May 17,
16 2019, citing diversity between the parties and that this Court has jurisdiction of the matter under 28
17 U.S.C. § 1332 and 28 U.S.C. § 1441(b).

18 **III.**

19 **The following facts are admitted by the parties and require no proof:**

- 20 1. Plaintiff was involved in an automobile accident on December 30, 2016;
- 21 2. The underlying tort carrier possessed policy limits in the amount of \$100,000;
- 22 3. At the same time and place, Plaintiff was insured by Defendant under Policy No.
23 4211883204, with applicable underinsured motorist limits of \$100,000 per person and
24 \$300,000 each occurrence. The policy provisions are incorporated herein by this
25 reference; and
- 26 4. On May 4, 2018, Plaintiff demanded payment of his UIM policy limit.

27 ///

28 ///

IV.

The following facts, though not admitted, will not be contested at trial by evidence to the contrary:

None at this time.

V.

The following are the issues of fact to be tried and determined at trial: Whether Defendant breached the terms of its contract with Plaintiff and whether Defendant has sufficient defenses to defeat Plaintiff's claims of breach.

VI.

The following are the issues of law to be tried and determined at trial.

11 1. Whether Defendant's breached the terms of its contract with Plaintiff and whether
12 Defendant has sufficient defenses to defeat Plaintiff's claims of breach..

(a) The following exhibits are stipulated into evidence in this case and may be so marked by the clerk:

(1) Plaintiff's exhibits.

1. Medical and billing records from SUNRISE HOSPITAL MEDICAL CENTER [DB-SHMC-0001-0041]

2. Billing records from FREMONT EMERGENCY SERVICES DB-FES-00011

3. Billing records from RADIOLOGY SPECIALISTS [DB-RS-0001]

4. Medical and billing records from for NEVADA COMPREHENSIVE PAIN CENTER [JDB-NCPC-0001-0043]

5. Medical and billing records from DR. AKERS CHIROPRACTIC NETWORK [DB-DACN-0001-0049]

6 Billing record from LAS VEGAS PHARMACY [DB-LVP-0001]

7. Medical and billing records from PUEBLO MEDICAL IMAGING
[DB-PMI-0001-0005]

- 1 8. Medical and billing records from ADVANCED PAIN
2 MANAGEMENT [DB-APM-0001-0096]
3 9. Medical and billing records from NEVADA SPINE CLINIC [DB-
4 NSC-0001-0014]
5 10. Medical and billing records from SIENA HEIGHTS SURGERY
6 CENTER [DB-SHSC-0001-0003]
7 11. Billing record from PAYLATER PHARMACY [DB-PLP- 0001]
8 12. Medical and billing records from CENTENNIAL MEDICAL GROUP
9 [DB-CMG-0001-0010]
10 13. Billing records from QHR PHARMACY
11 14. Ian Andrew Craven, MD-License Details [EXP0001-0002]
12 15. Demetrice Davis, MD-License Details [EXP0003-0004]
13 16. Alain Coppel, MD-CV, Fee Schedule, List of Trial and Deposition
14 Testimony [EXP0005-0020]
15 17. Mima Gamboa, DC-CV & Fee Schedule [EXP0021-0022]
16 18. Keith M. Lewis, MD-CV & Fee Schedule [EXP0023-0027]
17 19. Satish Sharma, MD-CV, Fee Schedule, List of Publications [EXP0028-
18 0031]
19 20. Jaswinder Grover, MD-CV, Fee Schedule, List of Trial and Deposition
20 Testimony [EXP0032-0046]
21 21. Jaemi Keith, MD-License Details [EXP0047-0048]
22 22. Medical and billing records from CHESAPEAKE UROLOGY [DB-
23 CU-0001-0020]
24 (2) **Defendant's exhibits.**
25 1. GEICO General Insurance Company Declarations and Policy
26 (POLICY 000001-000027)
27 2. Documents received from The Hartford in response to Subpoena Duces
28

Tecum (HARTFORD 000001-000133)

3. Documents received from Zurich American Insurance Company in response to Defendant's Subpoena Duces Tecum (ZURICH 000001-000327)
 4. Documents received from Blue Raven Solar in response to Defendant's Subpoena Duces Tecum (BLUE RAVEN 000001-000021)
 5. Documents received from Comcast in response to Defendant's Subpoena Duces Tecum (COMCAST 000001-000057)
 6. Documents received from Cox in response to Defendant's Subpoena Duces Tecum (COX 000001-000041)
 7. Documents received from Pella Mid-Atlantic, Inc. in response to Defendant's Subpoena Duces Tecum (PELLA 000001-000053)
 8. Documents received from Sales Partnerships, Inc. in response to Defendant's Subpoena Duces Tecum (SALES 000001-000040)
 9. Documents received from Solar City nka Tesla in response to Defendant's Subpoena Duces Tecum (SOLAR CITY 000001-000132)

Plaintiff's Medical Records

10. Advanced Pain Management Center (ADVANCED PAIN 000001-000045)
 11. American Medical Response / MedicWest Ambulance (AMR 000001-000010)
 12. Centennial Medical Group (CENTENNIAL MED 000001-000097)
 13. Chesapeake Urology Associates/Summit ASC (CHESAPEAKE UROLOGY 000001-000003)
 14. Comprehensive Medical Imaging (CMI 000001-000008)
 15. CVS Caremark (CVS CAREMARK 000001-000005)
 16. CVS Pharmacy (CVS 000001-000017)
 17. Delaware Chronic Pain Management Center & Detox Center

- 1 (DELAWARE CHRONIC PAIN 000001-000038)
- 2 18. Dr. Akers Chiropractic Network, Inc. (AKERS CHIRO 000001-000053)
- 3 19. ExcelLabs, LLC (EXCELLABS 000001-000003)
- 4 20. Fremont Emergency Services (FREMONT EMERG 000001-000002)
- 5 21. Greater Baltimore Medical Center (GBMC 000001-000024)
- 6 22. The Johns Hopkins Hospital (JOHNS HOPKINS 000001-000009 and films)
- 7 23. The Kroger Co. (KROGER 000001-000002)
- 8 24. Las Vegas Pharmacy, Inc. (LV PHARM 000001-000003)
- 9 25. LMC Pathology Services (LMC 000001-000014)
- 10 26. Nevada Comprehensive Pain Center (NV COMP PAIN 000001-000228)
- 11 27. Nevada Orthopedic & Spine Center (NV ORTHO 000001-000021)
- 12 28. Nevada Spine Clinic nka Allegiant Spine Institute (NV SPINE 000001-000019)
- 13 29. Paylater Pharmacy (PAYLATER 000001-000005)
- 14 30. Pueblo Medical Imaging (PUEBLO MED 000001-000045 and films)
- 15 31. Radiology Specialists, Ltd. (RADIOLOGY SPEC 000001-000002)
- 16 32. Siena Heights Surgery Center (SIENA HEIGHTS 000001-000024)
- 17 33. Sierra Med Services (SIERRA MED 000001-000009)
- 18 34. Southern Nevada Pain Center (SOUTHERN NV PAIN 000001-000052)
- 19 35. Specialized Pain Management (SPECIALIZED PAIN 000001-000101)
- 20 36. Sunrise Hospital & Medical Center (SUNRISE HOSP 000001-000269 and films)
- 21 37. Surgical Dermatology & Laser (SURGICAL DERM 000001-000009)
- 22 38. Vegas Valley Chiropractic (VEGAS VALLEY CHIRO 000001-000053)

1 000051)

2 39. Valley View Surgical (VALLEY VIEW SURG 000001-000012)

3 40. Walgreens (WALGREENS 000001-000049)

4 41. Walmart (WALMART 000001-000004)

5 (b) As to the following additional exhibits, the parties have reached the stipulations stated:

6 (1) **Set forth stipulations on Plaintiff's exhibits.**

7 None at this time.

8 (2) **Set forth stipulations on Defendant's exhibits.**

9 None at this time.

10 (c) As to the following exhibits, the party against whom the same will be offered objects
11 to their admission on the grounds stated:

12 (1) **Set forth Plaintiff's exhibits and objections to them.**

13 1. Deposition Transcript of Jeffrey C. Wang, MD in the matter of Simao
14 v Rish, et al, Case No. A539455 [WANG-0001-0094]

15 2. Deposition Transcript of Jeffrey C. Wang, MD in the matter of Ly,
16 Pham v Alderson, Case No. A562633 [WANG-0095-0124]

17 3. Article from LA Times "Regents OK \$8,5 million for 2 patients suing
18 over financial conflicts at f/CL4 "[WANG-0125-0129]

19 4. Article from Wall Street Journal "UCLA Surgeon Didn't Report
20 Payments" [WANG-0130]

21 5. United States Senate Committee on Finance Letter to Medtronic, Inc.
22 [WANG-0131-0137]

23 6. Stipulation, Decision and Order entered in the Matter of Jeffrey Wang,
24 Respondent, before The Fair Political Practices Commission, State of
25 California, FPPC No. 09/460 [WANG-0138-0146]

26 Defendant objects to the foregoing records as substantially more prejudicial than probative, as
27 well as not relevant to any claim or defense in this action, nor proportionate to the needs of the case.
28 Defendant also objects to these exhibits as not timely disclosed during discovery.

(2) Set forth Defendant's exhibits and objections to them.

1. None.

(d) **Electronic evidence:** The parties do not intend to present any electronic evidence for purposes of jury deliberations at this time.

(e) **Depositions:** None at this time. The only deposition taken was of the Plaintiff, and the transcript will only be utilized by Defendant, if at all, for impeachment purposes should the need arise.

(f) **Objections to Depositions:** The parties do not object to the use of deposition transcripts and videotaped depositions of any witnesses offered by the parties, to the extent allowable by the rules of evidence, and consistent with the rules of unavailability.

VII.

The following witnesses may be called by the parties at trial:

(a) Provide names and addresses of Plaintiff's witnesses.

1. Plaintiff DUSTIN BEAVERS
c/o LADAH LAW FIRM
517 S. Third Street
Las Vegas, NV 89101

PLAINTIFF'S MEDICAL PROVIDERS

2. Ian Andrew Craven, MD
Sunrise Hospital Medical Center
3186 S. Maryland Parkway
Las Vegas, NV 89109

3. Ian Andrew Craven, MD
Fremont Emergency Services
9301 S. Western Avenue
Oklahoma City, OK 73139-27

4. Demetrice Davis, MD and/or Lindsey Blake, MD
Radiology Specialists, Ltd.
P. O. Box 50709
Henderson, NV 89016

5. Alain Coppel, MD
Nevada Comprehensive Pain Center
2809 W. Charleston Blvd, Ste. 150
Las Vegas, NV 89102

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6. Mima Gamboa, DC
Dr. Akers Chiropractic Network
2931 N Tenaya Way Ste. 106
Las Vegas, NV 89128
 7. Dispensing Pharmacist
Las Vegas Pharmacy
2600 W. Sahara Avenue, Ste. 120
Las Vegas, NV 89102
 8. Keith M. Lewis, MD
Pueblo Medical Imaging/MMP
8551 W. Lake Mead Blvd, Ste. 150
Las Vegas, NV 89128
 9. Satish Sharma, MD
Advanced Pain Management Center
9029 S. Pecos Road, Ste. 2800
Henderson, NV 89074
 10. Jaswinder Grover, MD
Nevada Spine Clinic
Allegiant Institute
7140 Smoke Ranch Road, Ste. 150
Las Vegas, NV 89128
 11. Satish Sharma, MD
Siena Surgery Center
2865 Siena Heights Drive, Ste. 200
Henderson, NV 89052
 12. PayLater Pharmacy
1210 S Valley View Blvd. Suite 210
Las Vegas, NV 89102
 13. Jaemi Victoria Keith, MD
Centennial Medical Group
4454 N. Decatur Blvd
Las Vegas, NV 89130
 14. QHR Pharmacy
765 Nellis Blvd. #7
Las Vegas, NV 89110
 15. Christen A. Alevizatos, MD
Chesapeake Urology
6535 Chalrest St. #500
Las Vegas, NV

(b) **Provide names and addresses of Defendant's witnesses.**

1. Dustin Beavers
c/o Ladah Law Firm
517 South Third Street

1 Las Vegas, NV 89101

2 2. Dr. Jeffrey Wang
3 USC Spine Center
4 517 South Third Street
5 Las Vegas, NV 89101

6 **PLAINTIFF'S MEDICAL PROVIDERS**

7 3. Defendant intends to cross-examine all of Plaintiff's treating physicians called
8 during Plaintiff's case in chief and, to the extent any of Plaintiff's treating
9 providers identified above are not called during Plaintiff's case in chief,
10 Defendant intends to call such witnesses during its own case in chief.

11 **VIII.**

12 **The attorneys or parties have met and jointly offer these three trial dates:**

13 September 14, 2020 September 21, 2020 September 28, 2020.

14 It is expressly understood by the undersigned that the Court will set the trial of this matter on one of
15 the agreed-upon dates if possible; if not, the trial will be set at the convenience of the Court's
16 calendar.

17 **IX.**

18 **It is estimated that the trial will take a total of five (5) to seven (7) days.** A jury trial has been
19 requested by Defendant.

20 **X.**

21 The parties hereby certify that they considered consent to trial by a magistrate judge under 28 U.S.C. §
22 636(c) and Fed. R. Civ. P. 73, use of the Short Trial Program (General Order 2013-01), and the use of
23 alternative dispute-resolution processes including mediation, arbitration, and early neutral evaluation.

24 The parties have not agreed to trial by a magistrate judge or the use of the short trial program.

25 **APPROVED AS TO FORM AND CONTENT:**

26 DATED this 17th day of March, 2020

27 LADAH LAW FIRM

28 By /s/ Anthony L. Ashby
29 ANTHONY L. ASHBY, ESQ.
30 Nevada Bar No. 4911
31 Attorneys for Plaintiff

1 DATED this 17th day of March, 2020

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McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

By /s/ Wade M. Hansard
WADE M. HANSARD, ESQ.
Nevada Bar No. 8104
JONATHAN W. CARLSON, ESQ.
Nevada Bar No. 10536
RENEE M. MAXFIELD, ESQ.
Attorneys for Defendant

XI.

ACTION BY THE COURT

This case is set for jury trial on the stacked calendar on September 28, 2020, at 9:00 a.m. in
Courtroom 6C. Calendar call will be held on September 22, 2020, at 8:45 a.m. in Courtroom 6C.

This pretrial order has been approved by the parties to this action as evidenced by their signatures or
the signatures of their attorneys hereon, and the order is hereby entered and will govern the trial of
this case. This order may not be amended except by Court order and based upon the parties'
agreement or to prevent manifest injustice.

DATED this 25th day of March, 2020.

By


UNITED STATES DISTRICT JUDGE

NOTICE: Due to the unusually large number of complex criminal cases set for lengthy trials before this Court, civil trials may possibly be held in a trailing status for months or be assigned to another District Court Judge for trial. Therefore, the Court strongly urges the parties to consider their option to proceed before a Magistrate Judge pursuant to Local Rule IB 2-2, in accordance with 28 USC Section 636 and FRCP 73.

The Clerk shall provide the parties with a link to AO 85 Notice of Availability, Consent and Order of Reference - Exercise of Jurisdiction by a U.S. Magistrate Judge form on the Courts website.